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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,741	03/07/2002	Fernando R. Masas	135/0001	2877
7590 03/26/2004				
Thomas A. Gallagher, Esq. 65 Woods End Road Stamford, CT 06905			EXAMINER MARSH, STEVEN M	
			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,741

Applicant(s)

MASAS, FERNANDO R.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the third office action for U.S. Application 10/092,741 for Methods and Apparatus for Suspending Fixtures filed by Fernando R. Masas on March 7, 2002. Claim 9 has been canceled.

Allowable Subject Matter

Claims 14-16 are allowed. The indicated allowability of claims 5 and 6 is withdrawn in view of the newly discovered reference(s) to U.S. Patent 564,468 to Buell in view of U.S. Patent 5,052,648 to Landau. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

Claims 1-4 and 7, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Fahnestock. Fahnestock discloses an apparatus for suspending a fixture in conjunction with a wire with an angle bracket that has a first (8) and second flange (9) with a plurality of flanges (10 for each part 12). The first flange has a hole that receives a fastener and the second flange has a structure with a plurality of alternating loops (13) that is crimpable around the wire. The first flange lies in a first plane and the second flange lies in a second plane that is not parallel to the first plane. The structure includes a tongue (14) and the tongue cooperates with the portions (12 and 13) to define a wire-receiving hole (or slotted cylinder) and the wire extends in a direction that forms an angle with the first plane (0 degrees or 180 degrees). The wire is suspended by: obtaining a

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wire, a fastener, and an angle bracket; inserting an end of the wire into the structure; and crimping the structure upon the end of the wire to secure the wire to the second flange. The limitations directed towards a wire in claims 1-8, are given no patentable significance because the wire is not positively recited in the claim, and therefore the wire is considered a subcombination of the apparatus.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 564,468 to Buell. Buell discloses an angle bracket (E) with a first flange and a second flange. The first flange lies in a first plane and the second flange lies in a second plane that is not parallel to the first plane. The first flange has a hole adapted to receive a fastener (e) and the second flange has structure adapted to receive an end of wire (B and f). The structure is crimpable (it can be bent or twisted) upon the end of a wire and the structure includes a plurality of alternating loops (see bottom portion, b of fig. 2).

Claim Rejections - 35 USC § 103

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,052,648 to Landau in view of Buell. Landau discloses an apparatus for suspending objects. There is a suspension means (30) with an eyelet (26) that has a crimpable portion (28) adapted to receive the end of a wire. Landau does not disclose a structure with a hook that is crimpable over the eyelet. Buell discloses a structure with an angle bracket for suspension as discussed above in the rejection of claims 1-3. The structure has a hook portion (see fig. 2) that could be crimped through an eyelet. It would have been obvious

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to one of ordinary skill in the art at the time of the present invention to have utilized a suspension means, such as the one taught by Buell, in place of the suspension means taught by Landau, for the purpose of providing a suspension means that can be bent around the eyelet to further secure the connection between the eyelet and the suspending structure.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fahnestock. Fahnestock does not specifically disclose a method of suspending a fixture from a surface wherein the angle bracket and fastener are obtained simultaneously. However, it would have been obvious to one of ordinary skill in the art at the time of the present invention to have obtained the bracket and fastener at the same time to pre-fit the fastener and hole in the bracket, basically making the device one-piece rather than separable, for the purpose of providing a fastener bracket arrangement wherein a user would not have to locate a separate fastener to install the bracket.

Response to Arguments

Applicant's arguments filed January 9, 2004 have been fully considered but they are not persuasive. In response to applicant's arguments, the recitation "for suspending a fixture in conjunction with a wire" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process

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steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,776,809 to Hall

U.S. Patent 4,358,635 to Druffel

U.S. Patent 4,639,219 to Gagin

The above patents all disclose various brackets, crimpable around a wire.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

SM

Steven Marsh

March 17, 2004